

001927

REQUEST FOR COUNCIL ACTION  
CITY OF SAN DIEGO1. CERTIFICATE NUMBER  
(FOR AUDITOR'S USE C)128  
12/02TO:  
City Attorney2. FROM (ORIGINATING DEPARTMENT):  
Office of the City Auditor3. DATE:  
November 12, 2008

## 4. SUBJECT:

CONFLICT OF INTEREST CODE FOR THE OFFICE OF THE CITY AUDITOR

5. PRIMARY CONTACT (NAME, PHONE &amp; MAIL STA.)

Eduardo Luna 33026 MS 614B

6. SECONDARY CONTACT (NAME, PHONE &amp; MAIL STA.)

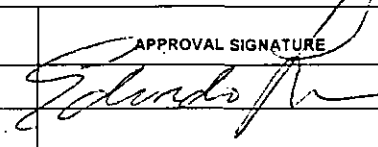
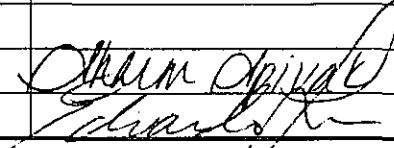
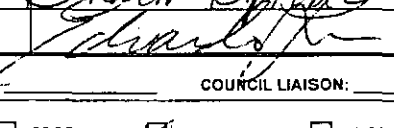
Kyle Esler 33010 MS 614B

7. CHECK BOX IF REPORT TO  
COUNCIL IS ATTACHED ☒

## 8. COMPLETE FOR ACCOUNTING PURPOSES

FUND					9. ADDITIONAL INFORMATION / ESTIMATED COST:
DEPT.					
ORGANIZATION					
OBJECT ACCOUNT					
JOB ORDER					
C.I.P. NUMBER					
AMOUNT					

## 10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIG. DEPT		11/12/08	8	DEPUTY CHIEF		
2				9	COO		
3				10	CITY ATTORNEY		11/12/08
4				11	ORIG. DEPT		11/12/08
5				DOCKET COORD: _____ COUNCIL LIAISON: _____			
6				<input checked="" type="checkbox"/>	COUNCIL PRESIDENT	<input type="checkbox"/> SPOB <input checked="" type="checkbox"/> CONSENT <input type="checkbox"/> ADOPTION	
7					REFER TO: _____	COUNCIL DATE: 12/2/08	

11. PREPARATION OF:

☒ RESOLUTIONS☐ ORDINANCE(S)☐ AGREEMENT(S)☐ DEED(S)

Adopting the Conflict of Interest Code for the Office of the City Auditor.

## 11A. STAFF RECOMMENDATIONS:

Approve the Conflict of Interest Code and appendicies as submitted.

## 12. SPECIAL CONDITIONS:

COUNCIL DISTRICT(S): ALL

COMMUNITY AREA(S): CITYWIDE

ENVIRONMENTAL IMPACT: N/A

HOUSING IMPACT: N/A

OTHER ISSUES: NONE

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EXECUTIVE SUMMARY SHEET

DATE REPORT ISSUED: September 16, 2008      REPORT NO.:  
ATTENTION: City Council  
ORIGINATING DEPARTMENT: Office of the City Auditor  
SUBJECT: BIENNIAL REVIEW: CONFLICT OF INTEREST CODES  
COUNCIL DISTRICT(S): N/A  
STAFF CONTACT: Kyle Elser 533-3010

REQUESTED ACTION:      Resolution

STAFF RECOMMENDATION:  
Pass Resolution

EXECUTIVE SUMMARY:

This revision is intended to conform to Government Code Section 87305.5 requiring a biennial review and update of local conflict of interest codes as reflected in City Council Resolution No. R-303718 adopted on May 27, 2008. The Office of the City Auditor code has been prepared to include the newly created positions with the passage of Proposition C. These positions are "City Auditor" and "Principal Auditor." These positions have been appropriately included in the conflict of interest code as well as consultants that may be utilized by the Department.

FISCAL CONSIDERATIONS:      0

PREVIOUS COUNCIL and/or COMMITTEE ACTION:      N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:      N/A

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):      N/A

Eduardo Luna, City Auditor  
[DEPT. HEAD]

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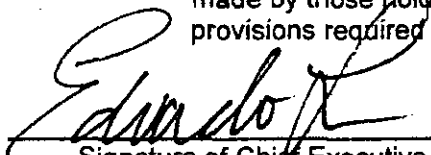
## 2008 Local Agency Biennial Notice

Name of Agency: Office of the City Auditor  
Mailing Address: 1010 Second Avenue, Suite 1400, San Diego, CA 92101 MS 614-B  
Contact Person: Kyle Elser  
Phone Number: 619-533-3010 Fax Number: 619-533-3036  
E-mail: KElser@sandiego.gov

This agency has reviewed its conflict of interest code and has determined that:

- ☒ The code needs to be amended and the following amendments are necessary:  
(Check all that apply)
- ☒ Include new positions (including consultants) which must be designated (App. A)
- ☐ Delete positions that manage public investments from the list of designated positions.
- ☒ Revise disclosure categories (App. B)
- ☐ Revise the titles of existing positions (App. A)
- ☐ Delete the titles of positions that have been abolished (App. A)

☐ No amendments are necessary. The agency's code accurately designates all positions that make or participate in the making of governmental decisions; the disclosure categories assigned to those positions accurately require the disclosure of all investments, business positions, interests in real property and sources of income which may foreseeably be affected materially by the decisions made by those holding the designated positions; and the code includes all other provisions required by Government Code Section 87302.

  
\_\_\_\_\_  
Signature of Chief Executive Officer

9/16/08  
\_\_\_\_\_  
Date

You must complete this report regardless of how recently your code was approved or amended.

Please return this report by August 22, 2008, to:

Denise Jenkins, Elections Analyst  
Office of the City Clerk  
202 C Street, MS 2A, San Diego, CA 92101

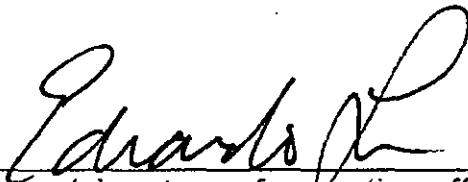
## **CERTIFICATION**

The foregoing amendment to the Conflict of Interest Code was prepared by the City of

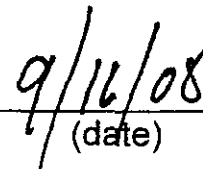
San Diego's Office of the City Auditor

(name of department/agency/board)

after a fair opportunity was offered to the members of the department/agency/board to present their views.



(signature of executive officer)



(date)

**OFFICE OF THE CITY AUDITOR AND COMPTROLLER  
CONFLICT OF INTEREST CODE**

As of ~~September 15, 2006~~ AUGUST 22, 2008

**APPENDIX A  
DESIGNATED POSITIONS, DUTIES AND CATEGORIES**

City Auditor and ~~Comptroller~~

Category 1

Chief ~~fiscal officer~~ City Auditor of the City of San Diego as specified in Charter Section 39 39.2.

~~Assistant City Auditor and Comptroller~~

~~Category 1~~

~~Under administrative direction to assist the City Auditor and Comptroller in planning, directing, and coordinating the activities of the City Auditor and Comptroller's Office and to perform related work. Also, to perform the duties of the City Auditor and Comptroller due to the absence of this person.~~

~~Financial Operations Manager~~

~~Category 2~~

~~Under administrative direction to plan, develop, and administer fiscal control over all City assets, to establish timely financial reporting, to direct auditing activities, to coordinate financial systems development, and to perform accounting activities related to payment services.~~

Principal Accountant Auditor

Category 2

Under general direction to ~~supervise areas within general accounting, audit, systems operations, and payment services divisions~~ perform auditing services for the City of San Diego.

Consultant

The Auditor shall determine in writing whether a consultant shall be required to disclose economic interests in one or more categories listed in Appendix B. The Auditor may determine that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus will be required to disclose economic interests in fewer than all categories. The Auditor's written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of the consultant's disclosure requirements. The Auditor's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

**OFFICE OF THE CITY AUDITOR AND COMPTROLLER**  
**CONFLICT OF INTEREST CODE**  
**As of ~~September 15, 2006~~ AUGUST 22, 2008**

**APPENDIX B**  
**DISCLOSURE CATEGORIES**

As used in this Appendix, The City of San Diego includes all entities for which the Office of the City Auditor and Comptroller provides ~~accounting, auditing, systems and payment~~ auditing related services.

**CATEGORY 1:**

Certain officials specified in Government Code Section 87200 in positions responsible for administration of city government are required by law to file Statement of Economic Interest Form 700, or its successor.

**CATEGORY 2:**

1. All reportable investments and business positions in any firm or entity that supplies goods or services to The City of San Diego, that is an adverse party to The City of San Diego in a legal proceeding, or is granted authority by The City of San Diego to use City facilities.
2. All reportable interests in real property owned or used by any person that supplies goods or services to The City of San Diego, that is a tenant of The City of San Diego, that is an adverse party to The City of San Diego in a legal proceeding, or is granted authority by The City of San Diego to use City facilities.
3. All reportable income, including any gifts of \$50 or more, from any person that supplies goods or services to The City of San Diego, that is a tenant of The City of San Diego, that is an adverse party to The City of San Diego in a legal proceeding, or is granted authority by The City of San Diego to use City facilities.

**OFFICE OF THE CITY AUDITOR  
CONFLICT OF INTEREST CODE  
As of AUGUST 22, 2008**

**APPENDIX A  
DESIGNATED POSITIONS, DUTIES AND CATEGORIES**

**City Auditor**

**Category 1**

City Auditor of the City of San Diego as specified in Charter Section 39.2.

**Principal Auditor**

**Category 2**

Under general direction to perform auditing services for the City of San Diego.

**Consultant**

The Auditor shall determine in writing whether a consultant shall be required to disclose economic interests in one or more categories listed on Appendix B. The Auditor may determine that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus will be required to disclose economic interests in fewer than all categories. The Auditor's written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of the consultant's disclosure requirements. The Auditor's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

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**OFFICE OF THE CITY AUDITOR  
CONFLICT OF INTEREST CODE  
As of AUGUST 22, 2008**

**APPENDIX B  
DISCLOSURE CATEGORIES**

As used in this Appendix, The City of San Diego includes all entities for which the Office of the City Auditor provides auditing related services.

**CATEGORY 1:**

Certain officials specified in Government Code Section 87200 in positions responsible for administration of city government are required by law to file Statement of Economic Interest Form 700, or its successor.

**CATEGORY 2:**

1. All reportable investments and business positions in any firm or entity that supplies goods or services to The City of San Diego that is an adverse party to The City of San Diego in a legal proceeding, or is granted authority by The City of San Diego to use City facilities.
2. All reportable interests in real property owned or used by any person that supplies goods or services to The City of San Diego, that is a tenant of The City of San Diego, that is an adverse party to The City of San Diego in a legal proceeding, or is granted authority by The City of San Diego to use City facilities.
3. All reportable income, including any gifts of \$50 or more, from any person that supplies goods or services to The City of San Diego, that is a tenant of The City of San Diego, that is an adverse party to The City of San Diego in a legal proceeding, or is granted authority by The City of San Diego to use City facilities.



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RESOLUTION NUMBER R-\_\_\_\_\_

DATE OF FINAL PASSAGE \_\_\_\_\_

RESOLUTION ADOPTING A REVISED CONFLICT OF  
INTEREST CODE FOR THE OFFICE OF THE CITY AUDITOR

WHEREAS, Government Code sections 87300 and 87302 require local agencies to adopt conflict of interest codes designating positions that involve the making or participation in making of decisions which may foreseeably have a material effect on financial interests, and for each position, the financial interests which are reportable; and

WHEREAS, in compliance with Government Code section 87306.5, the City is in the midst of a required City-wide biennial review of all conflict of interest codes for which the City Council serves as code-reviewing body; and

WHEREAS, by Resolution R-303718 (approved by the City Council on May 20, 2008), the City Council directed every City department, agency, board and commission for which the City Council serves as code-reviewing body to make biennial reports and to update their conflict of interest codes as necessary; and

WHEREAS, as the City's code-reviewing body, the City Council finds it in the public interest to adopt the standard conflict of interest code promulgated by the California Fair Political Practices Commission [FPPC] in Regulation 18730, and hereby declares its intention to incorporate by reference the terms of FPPC Regulation 18730 and any amendments to that regulation duly adopted by the FPPC as part of each conflict of interest code for which the City Council has responsibility; and

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WHEREAS, by Resolution No. R-302196, the City Council on December 5, 2006, approved a revised Conflict of Interest Code for the Office of the City Auditor and Comptroller; and

WHEREAS, the Office of the City Auditor now seeks to revise its conflict of interest code to reflect the fact that the Auditor and Comptroller are now in separate offices, to provide for a separate code for the Office of the Auditor, to delete positions more appropriately included in other department codes, and to revise titles of existing positions; and

WHEREAS, the City Council concurs that a revised Conflict of Interest Code be adopted for the Office of the City Auditor; and

WHEREAS, Government Code section 87303 provides that when a proposed conflict of interest code or amendment is approved by the code-reviewing body, it shall be deemed adopted, and, accordingly, this resolution is not subject to veto by the Mayor; NOW THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that a Conflict of Interest Code for the Office of the City Auditor is hereby adopted, consisting of standard language embodied in title 2, section 18730 of the California Code of Regulations, and any amendments to that regulation duly adopted by the Fair Political Practices Commission, with Appendix A showing designated positions and their duties, and Appendix B showing the disclosure categories.

BE IT FURTHER RESOLVED, that a copy of Appendix A and Appendix B to the Conflict of Interest Code for the Office of the City Auditor as adopted be placed on file in the Office of the City Clerk as Document No. RR-\_\_\_\_\_.

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BE IT FURTHER RESOLVED, that the persons whose positions are designated in the revised Conflict of Interest Code for the Office of the City Auditor shall file their statements of economic interest with the City Clerk in compliance with the schedule set forth in Government Code section 87302(b) and Fair Political Practices Commission Regulation 18730, or any amendments thereto, which set forth the deadlines for the filing of initial statements, assuming office statements, annual statements and leaving office statements.

BE IT FURTHER RESOLVED, that the statements of economic interest filed by designated persons be retained by the Office of the City Clerk and be made available for public inspection and reproduction.

BE IT FURTHER RESOLVED, that the Conflict of Interest Code for the Office of the City Auditor becomes effective upon the date of adoption of this resolution.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



Sharon B. Spivak  
Deputy City Attorney

SBS:als  
11/10/08  
Or.Dept:City Auditor  
R-2009-383